

No. 10532-4Lab.-77/27273.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Haryana Potteries and Chemicals, Udhampur, Jagadhari.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 98 of 1975

*between*

SHRI RAM KRISHAN WORKMAN AND THE MANAGEMENT OF M/S HARYANA POTTERIES  
AND CHEMICALS, UDHAMGARH, JAGADHARI

#### AWARD

By order No. ID/UMB/423-A-75/67414, dated 7th November, 1977, the Governor of Haryana referred the following dispute between the management of M/s. Haryana Potteries and Chemicals, Udhampur, Jagadhari and its workman Shri Ram Krishan, to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 ;

"Whether the termination of services of Shri Ram Krishan was justified and in order ? If not, to what relief is he entitled ?"

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged,—*vide* claim statement filed by him in conformity with the notice of demand served on the management, that the latter illegally terminated his services w.e.f. 8th May, 1975 on his refusal to sever his connection with the union of the workmen and that he was entitled to reinstatement with continuity of service and full back wages.

The management concerned denied the allegations of the workman,—*vide* written statement filed by them and pleaded that he abandoned his job of a Rickshaw puller voluntarily of his own accord w. e. f. 13th March 1975 and received his dues in full and final satisfaction, from them on 31st March, 1975.

The following issues were thus framed on pleas of the parties,—*vide* my order, dated 20th July, 1976 :—

- (1) Whether the applicant abandoned his job of his own accord voluntarily w.e.f. 13th March, 1975 ?
- (2) If not, whether the termination of services of Shri Ram Krishan was justified and in order ? If not to what relief is he entitled ?

I have heard learned authorised representatives of the parties with reference to the evidence led by them. I, decide the issues as under :—

#### Issue No. 1.

Shri Davinder Kumar Jain sole proprietor of the management concerned appearing as his own witness as M.W. 2, deposed that Shri Ram Krishan was his employee during the period from June, 1974 to March, 1975, as a Rickshaw puller and that on his (Davinder Kumar Jain) return from business tour of Delhi on 29th March, 1975 he found that he (Ram Krishan) was not working since 13th March, 1975. He added that he paid off his dues,—*vide* receipt dated 31st March, 1975 copy Exhibit M. 1 and that he (Ram Krishan) had been shown as absent in the attendance register w. e. f. 14th March, 1975. He admitted in cross examination that the management did not maintain payment of wages register. He denied the suggestion that the attendance register brought by him in Court and the original of the receipt Exhibit M.1 had been fabricated by him.

The workman rebutted the testimony of Shri Davinder Kumar,—*vide* his own statement that Shri Davinder Kumar Jain verbally terminated his services on 8th May, 1975 by way of asking him to remove his belongings from the residential quarter allotted to him and examined one Shri Hira Lal in support of that statement. Shri Hira Lal deposed that Shri Davinder Kumar Jain in his presence asked Shri Ram Krishan workman to remove his belongings from the residential quarter allotted to him inside the premises of the factory.

It would thus appear that there is on record the solitary oral statement of Shri Davinder Kumar in support of the plea covered by this issue. It would be interesting to note that the management did not make mention of the original receipt dated 31st March, 1975 copy Exhibit M.1., in the written statement and its production by them at a late stage on 23rd September, 1976 for the first time is obviously an after thought. The possibility of their having obtained the signatures of Shri Ram Krishan on the original without telling him its content

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is well strengthened as a result of their failure to produce or rely on it earlier than 23rd September, 1976, even though they filed their written statement as far back as on 19th May, 1976. The genuineness of the register of attendance of the employees brought by Shri Davinder Kumar in Court for the first time on 23rd September, 1976 is open to doubt on the same grounds and it would be further pertinent to note that this document was also not even referred to in the written statement.

Whereas Shri Davinder Kumar Jain deposed that on his return from business tour of Delhi from 29th March, 1975, he found Shri Ram Krishan workman absent from 13th March, 1975, he did not take care to examine any person who actually marked his (Ram Krishan) absence or who actually found him abruptly leaving his job. There is in other words no direct evidence on record on behalf of the management in support of this issue and the solitary oral hearsay statement of Shri Davinder Kumar Jain can hardly be said to be sufficient to establish their case, particularly when it is found rebutted by the testimony of Shri Hira Lal and the workman himself. I, therefore, while placing no reliance of the statement of Shri Davinder Kumar and the receipt dated 31st March, 1975 and the attendance register, fully believe the testimony of Shri Ram Krishan and Shri Hira Lal that the management arbitrarily terminated his services with effect from 8th May, 1975. I, in the result decide this issue against the management.

#### Issue No. 2

In view of my findings on issue No. 1 this is obviously a case of termination of services of the workman by the management in an unjustified manner and he is entitled to reinstatement with continuity of service and full back wages. I hold and decide this issue accordingly and answer the reference while returning the award in these terms.

Dated the 21st September, 1977.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 2034, dated 26th September, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 10537-4Lab-77/27285.— In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workman and the management of M/s. Escorts Limited, Tractor and Engineering Division 18/4, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 160 of 1974

*between*

SHRI NARINDER SINGH, WORKMAN AND THE MANAGEMENT OF M/S. ESCORTS  
LIMITED, TRACTOR AND ENGINEERING DIVISION, 18/4, MATHURA ROAD,  
FARIDABAD

Present.—

Shri Darshan Singh, for the workman.

Shri K. K. Khuller for the management.

#### AWARD

By order No. ID/FD/74/35071, dated 16th October, 1974, the Governor of Haryana, referred the following dispute between the management of M/s. Escorts Limited, Tractor and Engineering Division, 18/4, Mathura Road, Faridabad and its workman Shri Narinder Singh, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Narinder Singh was justified and in order. If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings of the parties, the following issues were framed by my learned predecessor on 9th May, 1975:—

Whether the termination of services of Shri Narinder Singh was justified and in order? If not, to what relief is he entitled?

The case was set for the evidence of the parties. The management examined Shri Amar Nath, their Security Officer who had held the domestic enquiry. He stated that he was appointed Enquiry Officer to hold the enquiry into the charge-sheet framed against the workman. Exhibit M-1 is the true copy of the enquiry proceedings. He had brought the original record of the enquiry proceedings for inspection by the court and the workman. The workman signed the enquiry proceedings whenever, he was present. He stated that he gave opportunity to cross-examine the witness for the management and to adduce defence evidence and for appointing representative of the workman concerned. He proved his report Exhibit M-2. He further stated that he found the charges established. Exhibit M-3 is the true copy of the certified standing orders of the management. He proved the termination letter Exhibit M-4. He also stated that the proceedings were properly recorded. In cross-examination he stated that the enquiry was remained pending from 24th July, 1973 to 7th June, 1974. Sometimes the representative for the workman did not appear. The representative for the workman requested that the record of the enquiry should be retained in the court. The management closed their case.

Then the case was fixed for the evidence of the workman who stated that the enquiry was held against him and that he was not paid full subsistence allowance during the period of enquiry and that he was not given full opportunity to examine his witness in defence. He further stated that his witness Servshri Amar Singh and Ram Parkash were threatened by the enquiry officer with removal from service in case they appeared as witnesses. He further stated that no other workman except him were served with any charge-sheet who were concerned with the incident. He further stated that he was concerned by the Foreman to resign his job after he met with an accident in the year 1972. He further stated that he did not resign and then he wanted to terminate his services or the other ground. He was a member of the Union also. He further stated that he did not file case before the Authority under the Payment of Wages Act for recovery of his wages. He also stated that he was jobless. In cross-examination he admitted that Amar Singh and Ram Parkash were examined as defence witnesses in the enquiry. He admitted his signatures on the proceedings of the enquiry and the orders of the Enquiry Officer. He also stated that he did not make any complaint against the Foreman on his coercion made to resign his job. The workman also examined Shri Darshan Singh his authorised representative who stated that he filed a petition before the Authority under the Payment of Wages Act. In cross-examination he admitted that the application was dismissed but on the ground of non-maintainability and the management had put in their appearance in those proceedings. The management had filed written reply in those proceedings. Then the case was fixed for arguments. The representative for the workman filed written arguments and its copies were given to the representative of the management and the learned representative for the management also filed written arguments.

They were asked if they wanted to address arguments orally. They stated that they did not want address arguments orally.

I have considered and discussed the written arguments of both the parties. I have also gone through the enquiry proceedings.

The representative for the workman has submitted that there was no evidence on record to support the complaint of the Security Officer. Another ground taken by the workman's representative is that the defence witness have denied the charges levelled against the workman. It was also argued that there was some discrepancies in the statement of the witnesses for the management. Further argued that the enquiry officer acted in favour of the management. It was also argued that question relevant was not allowed by the enquiry officer to be put to the witnesses of the management. It was further argued that the finding of the enquiry officer was contrary to the enquiry record and that the enquiry officer was partial.

The management argued that the enquiry was based on evidence. It is supported by the evidence of M.W. 1 who has corroborated his complaint in examination-in-chief and that (Shri Joginder Singh another) witness corroborated the evidence of M.W. 1. The representative for the management emphatically argued that it is not the number of witnesses that is required for proof rather it is the quality of the evidence that is required for proof. He cited several cases viz AIR-1966-Cal-194, AIR-1968-Rajasthan-63, AIR-1958-Punjab-164, AIR (S.C.) -1972-2182 which have laid down that even a fact can be proved by a solitary witness if the court is convinced of his truthfulness.

I have considered arguments of both the parties and also the ruling cited by the learned representative for the management. The representative for the management has given a complete factual position regarding the adjournment of the enquiry proceedings. Several times the adjournment was granted on the request of the workman

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or his representative and sometimes on account of inability of the enquiry offices or the management. I have also gone through the enquiry proceedings and pursued them. On majority of occasions the adjournment were granted on the request of the workman or his representative. As far as the payment of suspension allowance is concerned, I think it can be agitated by the workman before the proper forms. I have gone through the statement of M.W. 1 Shri I. W. Paul. He has corroborated his complaint. Next I come to the statement of Shri Joginder Singh who had stated that Sarvshri Kanwal Singh and Gian Inder Singh was spoiling time in the toilet. He told them to go to their work and not waste time but they did not leave the place. He then telephoned to the Security then Shri Paul came there. He checked them, they were wasting time there. Mr. Paul asked their token numbers but Kanwal Singh did not tell his token number, whereas Shri Gian Inder Singh told. Shri Paul brought them at the gate and asked Gian Singh, and sent Gian Singh to his place of work but Gian Singh did not work there and then Shri Narinder Singh workman concerned uttered the following words—

"They had gone to drink water only, what happened. If their man did not come, they shall go out leaving work".

Shri Joginder Singh again telephoned the security people. Mr. Paul came there and asked Narinder Singh and some of his companion as to why they were not working. Shri Narinder Singh replied If workers go to drink water or smoke, what was the fault. Narinder Singh further told that Foreman and Security people have made like mutiny "GHADDAR". Narinder Singh further told that if one goes to smoke a pass is required. If one goes to drink water, pass is required. Thereafter Mr. Paul left that place. Shri Narinder Singh together with his companion went out of his department. In cross-examination he stated that Narinder Singh went out of his department together with 5/6 companion and he named such companion.

The management has also examined one more witness in his enquiry proceedings and then the defence witnesses were examined in the domestic enquiry.

From the enquiry proceedings I do not find that the enquiry officer was impartial. It is correct that the enquiry officer mainly believed in the evidence of M.W. 1. Although the statement of M.W. 2 do not fully corroborate the statement of M.W. 1, but to some extent it corroborate. Even M.W. 2 in the enquiry proceedings has stated that while Shri Paul was doing his duty asking the other persons as to why they were not working, Shri Narinder Singh intervened and uttered indisciplinary and objectionable words passing remarks on the acts of Foreman and Security officials and also supported the indisciplinary acts of other workmen and encouraged them for a wrong purpose.

The enquiry officer believed the evidence of the management.

I can interfere with the findings of the enquiry officer when it is a case of no evidence but in the instant enquiry proceedings, it is not a case of no evidence. It is a case where evidence is there before the enquiry officer, the only question is that the enquiry officer believed in the solitary corroborated testimony of M.W. 1 Shri Paul which was corroborated to some extent by M.W. 2 lending to the main charge. Shri Narinder Singh even went out of his department with 5/6 of his companions, this was like an indication of protest. M.W. 2 has not corroborated the abusive language only. Moreover principles of natural justice have not suffered at all. The workman or his representative has cross-examined the witnesses for the management. Even the defence witness of the workman have been recorded. Enquiry proceedings have been signed by the workman concerned.

The charge sheet is in three parts. First part relates to wasting of time in the bath room, whatever thereafter has been stated to have been uttered by Sarvshri Kanwal Singh and Gian Inder Singh is corroborated by M.W. 2 in substance. The second part also relates what the workman concerned incited others to leave the department and struck work that is also corroborated by M.W. 2. The 3rd part is the abusive, insulting language and casting aspersions by using filthy language. Only this part is not corroborated by M.W. 2 but M.W. 1 has corroborated the whole of the charge sheet. Now this was a question of belief or not belief in the evidence of the management by the Enquiry Officer. The Enquiry Officer believed. Therefore, it is not a case of "no evidence". In the circumstances the Enquiry Officer has believed the evidence of the management which is based on evidence and is not a case of no evidence and when principles of natural justice have not suffered, as I have held above, I find myself to interfere with the findings of the enquiry officer. The workman concerned has been allowed opportunity of cross examining the witness for the management and which he actually was done. He has also been allowed to produce defence witnesses which also he has actually done. He has also been allowed representation by another workman—his colleague in the domestic enquiry and he has signed enquiry proceedings, I think it is not a case where I can interfere with the findings of the Enquiry Officer. This is not an appellate court over Enquiry Officer. I cannot substitute my judgement for that of the enquiry officer. Where he has believed the evidence of the management, I am not to say that he should not have believed, but if I find fault in the enquiry proceedings and find it vitiated, I can certainly hold that. But I see no fault and do not find the enquiry proceedings vitiated.

The whole crux comes to this as to on what quantum of evidence the enquiry officer should or should not believe. There the law is very clear. It is the quantum of quality and not the question of witnesses.

The enquiry officer has believed M.W. 1 whose statement has fully corroborated the charges levelled against the workman concerned. The enquiry officer has also believed M.W. 2 who has corroborated the two parts of the charge sheet but has not corroborated the 3rd part.

To me, it looks that it is a matter of belief or not belief only and nothing more. It is not proper and safe to laid down that the enquiry officer should believe a fact which he is fully and cent per cent corroborated by at least two witnesses, or the law has no where laid down so. The representative of the workman has cited no ruling whatsoever.

I, therefore, hold that the enquiry is not vitiated and is in accordance with the principles of natural justice.

When I come to the above conclusion, it is an established fact that the enquiry officer found the charges proved against the workman concerned and then the standing orders of the management allows termination of services on these grounds, I am left with no alternative, then to hold that the termination of services of the workman concerned was justified and in order. I, therefore, decide issue No. 1 in favour of the management. I, therefore, give my award as follows :—

That the termination of services of the workman concerned Shri Narinder Singh was justified and in order and he is not entitled to any relief.

The 27th September, 1977

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 941 dated the 27th September, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 27th September, 1977

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

The 18th October, 1977

No. 10777-4Lab-77/27723.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish following award of the Shri Dharmendra Nath, Assistant Labour Commissioner (Sole Arbitrator), U.T. Chandigarh in respect of the dispute between the workmen and the management of M/s Northern India Finance Company, Mathura Road, Ballabgarh.

BEFORE SHRI DHARMENDRA NATH, ASSISTANT LABOUR COMMISSIONER (SOLE ARBITRATOR), UNION TERRITORY, CHANDIGARH IN THE MATTER OF AN INDUSTRIAL DISPUTE

*Between*

THE MANAGEMENT OF M/S NORTHERN INDIA FINANCE COMPANY, MATHURA ROAD, BALLABGARH AND THEIR WORKMEN S/SHRI DAYA RAM AND SOHAN PAL

*Appearances:*

1. Shri Sunehari Lal, for the workmen.
2. Shs K.P. Aggarwal, for the management.

#### AWARD

In December, 1975 I remained posted as Labour Officer-cum-Conciliation Officer at Ballabgarh. During his period, an industrial dispute having come into existence between the management of M/s Northern India Finance Company, Faridabad and their workmen S/Shri Daya Ram and Sohan Pal, the parties agreed to refer the same to my arbitration and the Government of Haryana in the Department of Labour and Employment, published the arbitration agreement,—vide Haryana Government, Labour Department notification No. ID/FD/374-76/10605, date the 19th March, 1976. The specific matter in the dispute which is mentioned in the said agreement runs as under :—

“Whether the termination of services of Shri Daya Ram and Shri Sohan Pal is justified and in order ? If not, to what relief they are entitled ?”

After the agreement was published in the Gazette, usual notices were issued to the parties. In compliance hereto, the parties put up their appearances and thereafter, proceedings were taken on different dates. On 26th September, 1977, when the parties appeared before me, they jointly presented an agreement of the even date before me and made a statement that they have compromised the dispute out of the court. They also requested me that I should give my award accordingly.

In the agreement dated 26th September, 1977, it is provided that the management will pay a lump-sum amount of Rs 585 to each workman namely S/Shri Daya Ram and Sohan Pal in full and final settlement of all their claims including earned wages, leave wages, bonus, gratuity etc. It is further provided the reunder that the workmen shall have no other claim or cause of action against the management and they shall forgo their right of re-instatement or re-employment in the factory.

In my view, the settlement dated 26th September, 1977 is fair and reasonable. Accordingly I accept the same and direct the respondent management to pay to the workman S/Shri Daya Ram and Sohan Pal a sum of Rs 585 each in full satisfaction of their claim for re-instatement/re-employment in the factory or any other claim whatsoever including earned wages, leave wages, bonus, gratuity etc. The reference is answered accordingly.

Dated the 4th October, 1977.

**DHARMENDRA NATH,**  
Assistant Labour Commissioner,  
Union Territory, Chandigarh.  
(Sole Arbitrator).

Endorsement No. 5555, dated the 7th October, 1977.

Forwarded four copies to the Secretary to the Government, Haryana, Department of Labour and Employment, Chandigarh, as required under Section 10-A(3) of the Industrial Disputes Act, 1947.

**DHARMENDRA NATH,**  
Assistant Labour Commissioner,  
Union Territory, Chandigarh.  
(Sole Arbitrator).

No. 10808-4Lab-77/27777.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana Faridabad in respect of the dispute between the workman and the management of M/s Busching Schmitz Private Ltd., 18/6, Mathura Road, Faridabad.

**BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL  
HARYANA, FARIDABAD**  
Reference No. 249 of 1976

*between*

**SHRI RAMESH CHANDER, WORKMAN AND THE MANAGEMENT OF M/S BUSCHING  
SCHMITZ PRIVATE LIMITED., 18/6, MATHURA ROAD, FARIDABAD**

*Present :* Neither party present.

#### **AWARD**

By order No. ID/FD--89-C-76/43521, dated 23rd November, 1976, the Governor of Haryana referred the following dispute between the management of M/s. Busching Schmitz Private Ltd., 18/6, Mathura Road, Faridabad and its workman Shri Ramesh Chander to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Ramesh Chander was justified and in order? If not, to what relief is he entitled?

On receipt of the reference notices were issued to the parties. The parties appeared. The management filed their written statement and the case was fixed for filing rejoinder by the workman. The workman prayed for adjournment for filing rejoinder. Then the case was again adjourned for 9th September, 1977 for filing rejoinder by the workman. On 9th September, 1977 non appeared. It was a case of dismissal in default. It seems that the workman is not taking interest in pursuing his dispute. I, therefore, give my award as follows :

That the termination of services of the workman concerned was justified and in order. He is not entitled to any relief.

**NATHU RAM SHARMA,**

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated the 30th September, 1977

No. 990, dated the 31st October, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 31st October, 1977

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

**No. 10810 -4LAB-77/27779.** —In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Busching Schmitz Private Limited, 18/6 Mathura Road, Faridabad.

**BEFORE SHRI NATHU RAM SHARMA PRESIDING OFFICER, INDUSTRIAL TRIBUNAL HARYANA FARIDABAD**

**Reference No 41 of 1974**

*between*

**SHRI RAM LAL WORKMAN AND THE MANAGEMENT OF M/S BUSCHING SCHMITZ PRIVATE LIMITED, 18/6 MATHURA ROAD, FARIDABAD**

*Present :*

Shri Ram Murti Sharma, for the workman.

Shri S. L. Gupta, for the management.

#### **AWARD**

By order No. ID/FD/837-A-74/32069, dated 10th September, 1974, the Governor of Haryana, referred the following dispute between the management of M/s Busching Schmitz Private Limited, 18/6 Mathura Road, Faridabad and its workman Shri Ram Lal to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Ram Lal was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were given to the parties. The parties filed their pleadings. On the pleadings of the parties, the following issues were framed, — *vide* my learned predecessor on 17th June, 1975.

- (1) Whether the demand, the subject matter of the reference was first raised on the management and rejected by it before taking up the matter for conciliation ? If not, with what effect ?
- (2) If it a case of self-abandonment of service by the workman concerned as asked by the management .
- (3) Whether the termination of services of Shri Ram Lal is justified and in order ? If not, to what relief is he entitled ?

Both the parties led their evidence and closed their case. The parties also addressed their arguments. The management examined their Administrative Officer as M.W. 1 who stated that due to power shortage, the workman concerned was transferred to Gaziabad and he complied the transfer order. He worked there for two days on 7th April, 1974 and 8th April, 1974 and thereafter he absented himself. Then the management send him notice for asking him about his absent. He further stated that the workman concerned remained absent for more than 10 days and lost his lien. He proved certain documents of the management. In cross-examination he stated that he looks after his head office work at Delhi and the factory work. He further stated that he used to receive information in respect of persons or absence of the workman send to Gaziabad on temporary transfer and received such reports in writing from Gaziabad which is their sister concern. He did not bring that report in court and neither he produce that report. He further stated that the attendance of employees transferred to Gaziabad used to be maintained at Faridabad although a temporary register of such employees was also maintained at Gaziabad. But he did not bring those registers nor produce them in Court. He also could not state whether the registration of these two concerns was under Number 1 or different numbers. The management closed their case.

The workman concerned examined himself as W.W. 1 who stated that he was in the employment of the management since 11th September, 1971 as electrician on a monthly wage of Rs. 200 P.M. He admitted his transfer to Gaziabad. He joined his duty at Gaziabad on 7th April, 1974. After two days he asked the factory

management to pay him the expenses of travelling and facility of residence. He also demanded his earned wage but the management refused to pay and told him to talk the Faridabad management. He further stated that when he returned to Faridabad he went to the factory premises at the gate but the management did not allow him entry. He proved certain documents. In cross examination he stated that he worked at Gaziabad on 7th and 8th April, 1974 and thereafter the Gaziabad management told him to go to Faridabad and worked there. He gave discription of the work that he was doing. He further stated that he had not received the wages for March, 1974 when he was sent to Gaziabad. He denied that he demanded D.A., T.A. against the rules and regulation of the management. He denied his absence for 10 days also. He further stated that D.A., T.A. was being paid to the amount of expenses incurred on travelling. The workman further examined another ex-workman of the management as W.W. 2. W.W. 2 was also working with the management during the relevant period. He testified that the workman attended the gate of the factory from 9th April, 1974 to 14th April, 1974 and was not allowed entry. In cross-examination he stated that he had given demands notice but his case was not referred to by the Government. The workman then closed their case. I have also gone through the documentary evidence produced by the parties. Exhibit M-2 is the travelling allowance rules of the management. On 2nd page of it, it is provided that actual Air/Rail/Road fare is to be paid to the employees from permanent duty station to temporary duty station but incidental expenses upto 30 per cent of such fare. He shall also be entitled to actual costs of transportation for both ways of house hold luggage on production of receipt. Exhibit M-1 is a transfer order given to the workman concerned. Exhibit M-5 is the standing orders of the management. Exhibit M-3 dated 18th April, 1974 speaks that the workman concerned was paid travelling allowance. Exhibit W-1 is the letter of the workman to the management which reads that when the workman concerned was demanded travelling expenses, the Gaziabad management did not reply rather they did not provide him job and told him that the workman concerned who go to Faridabad for work and when he came to Faridabad he was not given any work or job. Exhibit W-1 was sent by registered post and the acknowledgement due is Exhibit W-2. The workman again wrote Exhibit W-3 on 17th April, 1974 requesting the management to give him work. W-3 was also sent by registered post, the postal receipt is Exhibit W-4. Exhibit W-5 is the copy of the demand notice sent to the management by registered post, the postal receipt is Exhibit W-6. The workman again wrote Exhibit W-7 on 8th May, 1975 sending it by U.P.C. Exhibit W-8, repeating therein his previous requests. Exhibit W-9 is the copy of the conciliation proceedings.

From the evidence of the management, I am not satisfied that the workman concerned absented himself for 10 days. The management even withheld the attendance register of Gaziabad as well as Faridabad factory. The management also withheld the report of the Gaziabad factory which they had received from them. The management also could not give the number of registration of their concern and their sister concerned. Moreover the workman's plea is consistent that he obeyed the transfer order, he went to Gaziabad and worked there for two days. This part of the statement of the workman is not a dispute, the management has admitted this much. The management's case that the workman after performing his duty at Gaziabad for two days, absented himself for 10 days and thereby lost his lien on service. W.W. 2 has deposed that the workman concerned attended the factory premises from 9th April, 1974 to 14th April, 1974 and was refused entries. It is in evidence that there was a shortage of powers supply. It seems that due to shortage of power supplied the management wanted to get rid of some workmen and therefore they send them to Gaziabad and Fazabad factory did not owner the commitment of the Faridabad factory. When the workman concerned was transferred to Gaziabad by order dated 5th April, 1974, he had not received the wages for March, 1974. How he could come back to Faridabad to receive his wages after going on transfer. He demanded that payment and travelling expenses from Gaziabad factory and they did not pay any thing. Had they paid, there was no reason why the workman concerned come to Faridabad on 9th April, 1974. In the circumstances, it is most probable that Gaziabad factory officer might have told to the workman concerned to go to Faridabad, and therefore, the workman concerned came to Faridabad. In cross examination of the workman concerned, there is suggestion by the management that the workman concerned did not appear for duty at Gaziabad after 8th April, 1974 but there is no suggestion that the workman concerned did not attend to Faridabad factory after 8th April, 1974. As far as the former suggestion of not attending the Gaziabad factory after 8th April, 1974, the workman has denied. The version of the workman concerned is more plausible and appeal to reasonable mind. Moreover withholding of documents proving absence or otherwise of the workman concerned goes against the management. The management has failed to prove that the workman concerned absented himself from duty for more than 10 days. Therefore, the question of loss of lien does not arise. I now give my findings issue wise.

#### Issue No. 1

The representative for the management did not argue on issue No. 1. Moreover this controversy is now settled by the latest pronouncement of the Hon'ble Judge of High Court for Punjab and Haryana at Chandigarh. The raising of demands and its rejection is not conditional precedent for referring the dispute or for incitating conciliation proceedings as per the latest position of law. I, therefore, decide issue No. 1 against the management.

#### Issue No. 2

As per my above discussions, self abandonment of service by the workman concerned is not proved. I, therefore, decide this issue against the management.

## Issue No. 3

Decision on issue No. 2 lends assistance in deciding issue No. 3. But there is independent evidence also on the file, as discussed by me hereinbefore that it was a case of termination of services by the management and not a case of self abandonment of remaining absence for 10 days or more. In the above discussed circumstances, the termination of services of the workman concerned can not be held justified and in order. I, therefore, decide issue No. 3 against the management.

I, therefore, give my award as follows :—

That the termination of services of the workman concerned Shri Ram Lal is neither justified nor in order. He is entitled to reinstatement with continuity of service. The workman concerned has not stated in his examination as witness that he has remained un-employed throughout this period without gains nor the management stated a single word on this point. In the circumstances, I think, it would be justiciable if the workman concerned is paid half back wages. He is, therefore, entitled to half back wages in addition to reinstatement with continuity of service.

Dated 28th September, 1977.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 992, dated 3rd October, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated the 3rd October, 1977.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana.  
Faridabad.

**No. 10867-4Lab-77/27781.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana Faridabad, in respect of the dispute between the workman and the management of M/s H. M. Mehra and Company Kundli :—

**BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK**

**Reference No. 100 of 1977**

*Between*

**SHRI YASH PAL AND MANAGER SINGH WORKMEN AND THE MANAGEMENT OF  
M/S. H. M MEHRA AND COMPANY KUNDLI**

**AWARD**

By order No. ID/RK/147/29477, dated 10th August, 1977, the Governor of Haryana referred the following dispute between the management of M/s H. M. Mehra and Company, Kundli and its workmen Shri Yash Pal and Manager Singh, to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

**Whether the termination of services of Sarvshri Yash Pal and Manager Singh was justified and in order ? If not, to what relief are they entitled ?**

The parties put in their appearance in this Court on 19th September, 1977 in response to the usual notices of reference sent to them. The workman concerned were directed to file their claim statement on 5th October, 1977.

Whereas Shri Hari Parkash Aggarwal put in his appearance on 5th October, 1977 on behalf of the management neither the workmen concerned nor their authorised representative Shri M. S. Rathi appeared on that date despite the later being directed to do so,—*vide* my order, dated 19th September, 1977.

The absence of the workmen and their authorised representative on 5th October, 1977 the date of hearing fixed in the case indicates their want of interest in pursuing the demand raised by them on the management leading to this reference. I am thus satisfied that there is now no dispute between the parties requiring adjudication. I, hold accordingly and answer the reference while returning the award in these terms.

MOHAN LAL JAIN,

Dated the 5th October, 1977.

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 2217, dated the 10th October, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section '15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 10808-4Lab-77/27783.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workman and the management of M/s Deepak Tools India, Private Limited, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 222 of 1976

*between*

SHRI VIJAY KUMAR MITTAL, WORKMAN AND THE MANAGEMENT OF M/S DEEPAK  
TOOLS INDIA, PRIVATE LIMITED, FARIDABAD

Present —

Nemo for the workman.

Shri K. K. Prasher, for the management.

#### AWARD

By order No. ID/FD/1073-C-76/39775, dated 20th October, 1976, the Governor of Haryana, referred the following dispute between the management of M/s Deepak Tools India, Private Limited, Faridabad, and its workman Shri Vijay Kumar Mittal, for adjudication to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Vijay Kumar Mittal, was justified and in order ? If not, to what relief is he entitled?

On receipt of the order of reference, usual notices were given to the parties. The parties appeared and put in their pleadings. The management stated that their name has been wrongly described in the order of reference, hence the following issue was framed on 4th May, 1977.

- (1) What is the effect of describing the management as "Deepak Tools India (P) Ltd., instead of "Deepak Tools (P) Ltd."

The case was fixed for arguments. Thereafter the representative of the workman got busy in election and the case was fixed for 5th August, 1977. But on 5th August, 1977 neither the workman nor his representative appeared. It seems that the workman is not taking interest in pursuing his dispute, moreover, it also seems that the name of the management has been described wrongly in the order of reference, hence also the workman is not taking interest. I, therefore, give my award as follows :—

That the termination of services of the workman concerned was justified and in order and is not entitled to any relief, but it shall not be prejudice the workman concerned in any way to raise his dispute afresh hereafter by describing the management with correct name.

NATHU RAM SHARMA,

Dated the 30th September, 1977.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 989, dated 3rd October, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA.

Dated the 3rd October, 1977.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 10810-4Lab-77/27785.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the work men and the management of M/s. Berrysons (India) Pvt. Ltd., 1/45, D.L.F. Industrial Estate, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 148 of 1975

*between*

SHRI SOM NATH WORKMAN AND THE MANAGEMENT OF M/S. BERRYSONS (INDIA)  
PRIVATE LIMITED, 1/45, D.L.F. INDUSTRIAL ESTATE, FARIDABAD

Present :—

Shri Ram Murti Sharma, for the workman.

Shri S. L. Gupta, for the management.

#### AWARD

By order No. ID/FD/59887, dated 16th September, 1975, the Governor of Haryana, referred the following dispute between the management of M/s. Berrysons (India) Private Limited, 1/45, D.L.F. Industrial Estate, Faridabad and its workman Shri Som Nath to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Som Nath was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were given to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 13th February, 1976.

(I) Whether the demand raised by the workman was pre-mature and as such the reference made thereupon is bad in law ?

- (2) Whether it was necessary for the workman to raise a demand directly on the management and for the later to reject it before the matter was taken to the Conciliation Officer, in order to constitute an industrial dispute ?
- (3) If yes, whether such a course was adopted by the workman ?
- (4) Whether the workman absented himself from duty without permission from 17th May, 1975 onwards and lost his lien on his job ?
- (5) Whether the termination of services of Shri Som Nath was justified and in order ? If not, to what relief is he entitled ?

The case was fixed for the evidence of the management. The management examined Shri Narinder Singh, their Personnel Incharge as M.W. 1 who produced register of attendance from 1st April, 1975 upto June, 1975. He stated that the workman concerned was absent as per register from 17th May, 1975 till 30th June, 1975 whereafter his name was not taken over to the next month. The management sent a show cause notice to the workman concerned, copy whereof is Exhibit M-1 *vide* registered post on his residential as well as factory address. He tendered in evidence the postal receipts Exhibit M-2 and M-3. They were received back undelivered that the workman concerned was not found. Letters are Exhibit M-4 and M-5. The management received a notice of demands Exhibit M-6. They replied, —*vide* Exhibit M-7. The A.D. form is Exhibit M-8 as the workman had received it. He further stated that the workman concerned never came to resume his duty. He further stated that the management offered him assignment of duty during conciliation proceedings also on 12th June, 1975. They received a letter from the workman concerned copy whereof is Exhibit M-9. They sent his reply copy whereof is Exhibit M-10. In cross-examination he said that all the documents do not bear his signatures. No other question or suggestion was put to him in cross-examination by the representative for the workman. The management closed their case.

The case was then fixed for the evidence of the workman who deposed that he was employed on 1st August, 1971 as a Fitter and soon after his employment he formed a union of the workmen and he was elected its President. He raised general demands copy whereof is Exhibit W-1. The management replied, —*vide* Exhibit W-2. He further stated that his services were terminated by the management by shutting his entries in the premises on 17th May, 1975 without any reason and without supplying him any letter. He did not receive any letter thereafter. He further stated that the management did not own their commitment contained in their letter Exhibit M-7 which was sent to the union. He further stated that the management declined to take him on duty when he went to them in the company of one Shri Nathu Singh after the receipt of letter Exhibit M-7. He also stated that the Gatekeeper called Shri Narinder Singh who told him that he should dissolve the union if he wanted service and he would treat him a lesson. The workman concerned admitted in his examination-in-chief that the management had agreed to take him on duty during conciliation proceedings and stated that when such settlement was recorded, the management did not sign. In cross-examination he stated that he had gone to ask for duty on 26th May, 1975. Shri Berry, one of the Directors, came to the factory some times but Shri Berry was absent that day till the time the workman concerned reached there. The workman concerned admitted that Shri Ashwani Kumar is the Manager of the factory. He further admitted that the workman concerned did not meet Shri Ashwani Kumar the Manager. The workman concerned also admitted in cross-examination that he did not go to the factory thereafter and thereafter the workman closed his case. Thereafter the management moved an application that he may be allowed to take an additional plea that the workman was employed gainfully elsewhere. The plea was allowed subject to the payment of costs of Rs 25 only and issue was framed on 17th November, 1976. On this plea the management examined one Shri P.D. Bansal, a time keeper in some other concern as M.W. 2 but he could not support this plea.

The then case was fixed for hearing of arguments. Arguments were addressed and heard. I have gone through the pleadings, evidence oral as well as documentary by both the parties. My findings issue wise are as follows :—

#### Issue No. 1

The workman in his demand notice has stated that the management had terminated his service with effect from 17th May, 1975, and his demand notice is dated 18th May, 1975. It is the case of the management that the workman concerned absented himself from 17th May, 1975. The controversies lies between termination of services by the management (plea of the workman) and loss of lien by removing absent for more than a month (plea of the management), that shall be decided under issue No. 5 but as the demand notice is dated 18th May, 1975 and the dispute started on 17th May, 1975, hence the demand is not pre-mature and the reference thereupon, is not bad-in-law. This issue is decided against the management.

#### Issue No. 2

Issue No. 2 is not pressed even by the representative of the management. Moreover it has now been settled that if a workman does not raise a demand directly on the management, it is not settled. Moreover Exhibit M-6 is the copy of the demand notice which the management had received and had replied there to *vide* their letter dated 24th May, 1975, copy whereof is Exhibit M-7. Therefore, this issue become redundant. It is no more necessary for the workman to raise a demand directly on the management. It is also settled law that it is not necessary for constituting an industrial dispute that the demand so raised, be rejected by the management, hence this issue is decided against the management.

## Issue No. 3.

Issue No. 3 is also redundant in view of the latest case law. Moreover it is proved that the workman had raised the demand although the management had not rejected it, rather they had offered to the workman concerned to join duty and they had written to the workman concerned that he was absenting without reason and he should report for duty. Therefore, as far as the course to be adopted by the workman concerned is concerned it was adopted by the workman. Therefore, I decide this issue in favour of the workman.

## Issues Nos. 4 and 5.

These two issues are material issues and are connected with each other. Therefore I shall discuss them hereunder.

The workman joined the service on 1st August, 1971. He formed a union of the workmen soon after his employment and was elected its President. The management did not take any action for his trade union activities during about 3½ years. It is the consistent plea of the management that they did not terminate his services rather he absented from 17th May, 1975. I have pursued the statement of claim filed by the workman concerned wherein he has stated on his next page that in the conciliation meeting the representative of the management said to take action against him, not to take even duty and the management even there disagreed to take him on duty and to accept his demand of reinstatement. In the claim statement he did not disclose that the management had agreed to take him on duty. When the management in their written statement stated that conciliation meeting held on 12th June, 1975, the representative of the management made it clear that the workman was absented from duty and the workman shall report for duty but the workman had not cared to do so on receipt of management letter, dated 24th May, 1975 and that the conciliation officer had agreed with the comments of the management's representative and that thereafter immediately the workman made out a letter dated 12th June, 1975 that he had been going every day at the factory gate but was not taken on duty by the management, the workman concerned stated in his rejoinder that the management had agreed to reinstate him. He made out a further plea in the rejoinder that when the agreement to reinstate the workman concerned was typed, the management did not sign.

This is an admitted fact by both the parties that in the conciliation meeting, the management had agreed to take the workman concerned on duty. It is also corroborated by this fact that in their register of attendance the workman name was not struck off till 1st July, 1975. He was marked absent upto 30th June, 1975. Therefore, the management could not deny to take the workman concerned on duty. This seems to me the correct position of fact that in conciliation proceedings the management had agreed to take the workman concerned on duty because it is a consistent case of the management that the workman had been absented from 17th May, 1975. After this it was the duty of the workman concerned to report for duty. He has not proved that fact by any reliable evidence although he himself has stated that the management declined to take him on duty when he went to them for that purpose after receipt of letter. Exhibit M-7 and when he was asked the date when he went, he told he went on 26th May, 1975. It is thus quite clear that the workman concerned went to the factory for taking duty on 26th May, 1975 but he admits that even on 26th May, 1975 neither he met Shri Berry, the Director who visits the factory some times nor he met Shri Ashwani Kumar a Manager of the factory and he did not go to the factory thereafter. It can not be taken as truth that he went to the factory on 23rd May, 1975 and the management denied him duty. The workman concerned has further stated that he had gone to the factory after receipt of letter, Exhibit M-7, for taking duty in the company of Shri Nathu Singh but he has not examined Shri Nathu Singh as his witness. With holding of evidence of Shri Nathu Singh case against the workman concerned. The workman concerned has further stated that the Gatekeeper called Shri Narinder Singh and Shri Narinder Singh asked the workman concerned to dissolve the union if the workman concerned wanted service and that the said Shri Narinder Singh who taught him a lesson if he did not do that and demanded reinstatement. But the management examined Shri Narinder Singh prior to the workman concerned appeared as his own witness. Shri Narinder Singh appeared as M.W. 1 on 14th May, 1976 and the workman concerned appeared as W.W. 1 on 15th July, 1976. Shri Narinder Singh was examined as management witness, two months prior to the date when the statement of the workman concerned was recorded as his own witness but the workman's representative did not put any question to Narinder Singh, even did not put this question that the workman concerned had gone to the factory and the Gatekeeper had called Shri Narinder Singh and Shri Narinder Singh had asked the workman concerned to dissolve the union if he wanted service and that he, Shri Narinder Singh, who taught the lesson if the workman did that and demanded reinstatement. Not put in this question or suggestion in cross examination to Shri Narinder Singh goes against the workman concerned and belies his statement to this fact. It is clear that the letter of the management, dated 24th May, 1975, Exhibit M-7 was received by the workman concerned as he himself admits in his examination-in-chief that he went to the factory after receipt of letter Exhibit M-7, and the management declined to take him on duty. Even according to the workman concerned, if the workman concerned went to the factory and did not meet the Manager or the Director what was the effect of going there. The workman concerned states that he saw Mr. Narinder Singh and narrate the talks that took place between Shri Narinder Singh and him and when he does not put any question to Narinder Singh that such talks had taken place. I am of the opinion that he even did not see Shri Narinder Singh and those talks did not take place, otherwise he could put this question and suggestion to Shri Narinder Singh atleast. Suppose after receipt of letter Exhibit M-7 the workman concerned had gone to Shri Narinder Singh and suppose Shri Narinder Singh had declined to take him on duty, the workman concerned could have gone to the Labour Officer-cum-Conciliation Officer and has shown Exhibit M-7 to him and could have prayed for intervention.

Moreover, when this is an admitted fact that the management told before the Conciliation Officer that they have prepared to take the workman concerned on duty that the workman concerned should report for duty as he himself was absenting, the workman concerned, thereafter should have gone to the Conciliation Officer and should have reported him that the management had not taken him on duty. The workman concerned has stated as his own witness as W.W. I that the management had agreed to take him on duty during conciliation proceedings although the settlement recorded was not signed by them. It did not matter, even as per the workman concerned that the settlement was not signed, of course the management has agreed to take him on duty during conciliation proceedings. They signed or did not sign, when they had agreed to take him on duty during conciliation proceedings, the workman concerned should have gone thereafter to the factory for taking duty and if the management refuses him to give duty he could have reported it to the Conciliation Officer but he did not do that even. It did not go to the factory, according to the workman concerned, after 26th May, 1975, that also goes to the workman concerned. As far as his going to the factory on 26th May, 1975, is concerned, I have discussed it in the earlier part of this award.

The management wrote a letter dated 19th May, 1975 to the workman concerned that why he absented himself. That letter was posted at his residential address and at his factory address. I have seen those postal envelops. On the envelops addressed at his residential address, the postman has given an endorsement "Not Known" but on the envelop addressed at his factory address, the workman has given several dates on which he went on this address and he has made an endorsement that the addressee was not found after going there again and again. The postman went on this address atleast for five times and all the five times the Workman was not found. The postman has not reported that the addressee does not reside there. When he went several times and the addressee was not found, it leads me to this conclusion that the address of the workman concerned was correct but whenever the postman reached there, he was not found there and he had gone elsewhere. I think in this respect, the management was not at fault in any way. The postman's endorsement that he was not found at his factory address on several dates when the postman reached there adds weight to the plea of the management that the workman was absent. Moreover the management marked the workman concerned absent upto 30th June, 1975 for about one month and 14 days. The *malafide* intention of the management is not borne out. To me it looks a case of remaining absent by the workman concerned, because he is marked absent for a lengthy period as far as "without permission" is concerned, that is not the case of the workman that he absented without permission and had taken permission. His case is that on 17th May, 1975 the management terminated his services by way of shutting his entries in the factory. The workman concerned was an employee since 1st August, 1971.

He had about 3½ years at his credit. How his services could be terminated without giving him a letter of terminating his services. In the circumstances, the plea of the management that the workman concerned absented himself on 17th May, 1975 onwards is substantiated and as a result thereof it is the direct conclusion that he lost his lien. I, therefore, decide issue No. 4 in favour of the management. When I have decided issue No. 4 in favour of the management, the question of termination of services by the management does not arise. This is not a case of termination of services. It is a case of remaining absent for long and loss of lien. Therefore, decision on question No. 5 is concluded from the decision on issue No. 4. In the circumstances and facts discussed above, I find that the management did not terminate the services of the workman concerned. Therefore, I decide issue No. 5 that the management did not terminate the services of the workman concerned.

In the light of my above discussions, I give my award as follows :—

That the workman concerned absented himself from duty from 17th May, 1975 onwards and lost of lien on the job. He is not entitled to any relief.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated the 14th September, 1977.

No. 991, dated the 3rd October, 1977.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

G. V. GUPTA,  
Secy.

Dated the 3rd October, 1977.